The Racist Roots of Gun Control

By Felicia Whitley

The origin of gun control laws in American history were racially motivated.

The history of gun control in America was originally used to keep Afro-Americans "in their place." These gun control laws were never intended for whites. This law was to help quiet their racial fears. The New World Government thought that they should disarm blacks both free and enslaved because they felt that blacks were "dangerous." The 1751 French Black Code required people in Louisiana to stop blacks and "if necessary" beat "any black carrying any potential weapon." The colonists were just as scared of the Indians as they were of blacks. French Louisiana passed laws that allowed free blacks and slaves to possess firearms but only under extremely controlled conditions. The 16th century colony New Spain was terrified of black slave revolts and prohibited blacks both free and slaved from carrying arms. Restrictions on free blacks increased dramatically after Nat Turner's rebellion in 1831. Because of his rebellion Virginia's legislature made it illegal for free blacks "to keep or own any fire lock, any military weapon, powder or lead." The law before it was repealed stated that free blacks could occasionally carry arms. Now it was made completely illegal for blacks to carry arms. The fear of armed blacks became so strong that dogs were considered weapons. Now Maryland prohibited free blacks to own dogs without a license. Whites were authorized to kill an unlicensed dog owned by a free black. In the state of Mississippi blacks were not allowed to own dogs at all.

Maryland's Gun Control acts of 1715 ch. XLIV sec. XXXII states "That no Negro or other slave within this province shall be permitted to carry any gun or any other offensive weapon from their master's land without license from their said master, and if any Negro or other slave shall presume to do so shall be liable to be carried before a justice of the peace and be whipped and his gun or any other weapon shall be forfeited to him that shall seize the same and carry such Negro so offending to a justice of the peace."

The Tennessee Constitution Article XI sec. 26 says that "Freemen of this state have a right to keep and bear arms for their common defense." In 1834 this Constitution was revised. "That free white men of this state have a right to keep and bear arms for their common defense."

In the court case State vs. Huntly the North Carolina Supreme Court realized that the NC Constitution guaranteed the right to carry arms as long as you didn't carry it to scare people. In State vs. Newson the 1840 statute stated "That if any free Negro, mulatto, or free person of color shall wear or carry about his or her house any shot gun, musket, rifle, pistol, sword, dagger, or bowie-knife, unless he or she shall have obtained a license therefore from the court of pleas and quarter sessions of his or her county within one year preceding the wearing, keeping, or carrying thereof he or she shall be guilty of a misdemeanor and may be indicted therefor."

Article 17 of the 1776 North Carolina constitution states "That the people have a right to bear arms, for the defense of the state; and as standing armies, in the time of peace, are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to and governed by civil power."

In the outcome of the Newsom case the court asserted that "We cannot see that the Act of 1840 is in conflict with Article 17. The defendant is not indicted for carrying arms in the defense of the state nor does the Act of 1840 prohibit him from so doing….Its only object is to preserve the peace and safety of the community from being disturbed by an indiscriminate use on ordinary occasions by free men of color, of firearms, or other arms of an offense character. Self-preservation is the 1st law of nations as it is of individuals."

The NC Supreme Court reasoned that free blacks weren't citizens because they weren't allowed to vote. The NC Bill of Rights guaranteed the right to bear arms to the people. But according to the court a "free person of color" was not one of the people. The NC Supreme Court recognized the right to bear arms in 1843. Later free blacks weren't included.

The Georgia Supreme Court found in Nunn vs. the state a statute prohibiting the sale of concealable handguns and daggers violated the 2nd amendment; when they say the right of the people they only mean white people.

In the Dred Scott decision the U.S. Supreme Court showed understandings that citizenship excluded blacks and explained the relationship between citizenship and carrying arms. "Negroes recognized as citizens in any one state of the Union have the right to enter every other state without pass or passport, without obstruction and to go where they please unless they committed some violation of law for which a white man would be punished. To have full liberty of speech in public and keep and carry arms wherever thy went both free and slave."

In Georgia they have a process called "instant check" ("Should Minorities Be Allowed to Own Guns?", Diel Bland, 1968) It bans the sale of handguns to minorities. Most minorities are not ok'd by the state but lot of white customers are. The state will not reveal why the minorities' applications are denied. And they just give up.

Blacks needed to carry guns for self defense not only against criminal attacks, but they needed protection against being kidnapped and sold into slavery. A number of states passed laws to prohibit the kidnapping of blacks. These states were concerned that the federal Fugitive Slave Law would be used as a cover for re-enslavement.

The end of slavery didn't eliminate the problems of racist gun control laws. Black codes required blacks to obtain a license before carrying firearms. These restrictive gun laws played a part in provoking republican efforts to get the 14th amendment passed. The 14th Amendment's requirement to treat blacks and whites equally before the law led to the adoption of restrictive firearms in the south that were equal in the letter of the law, but unequally enforced.

In his book Saturday Night Special (1968) Robert Sherrill argued that the fear of armed blacks was the major provocation of the Gun Control Act of 1968. He argues that "The Gun Control Act of 1968 was passed not only to control guns but to control blacks, and inasmuch as a majority of Congress didn't want to do the former but were ashamed to show that their goal was the latter, the result was that they did neither. Indeed this law, the 1st gun control law passed by Congress in 30 years, was one of the grand jokes of our time (p. 20)….Niggertown Saturday Night Special was term used by racists in the South to describe pot metal guns used by blacks for protection….In the past because of the South and its racist gun control laws, blacks were confined to the sub-rosa market of the inexpensive, dangerous, so-called Saturday Night Special to obtain protection. Today in many crime-ridden minority communities that need still exists….Attempts to ban handguns that are inexpensive (but safe) are directly aimed at minority gun ownership." (p. 21)

Many people feel that gun control is really race control. "People who embrace gun control are really racist in nature. All gun laws have been enacted to control certain classes of people, mainly black people but the same laws used to control blacks are being used to disarm white people." ("Afro-Americans for the Preservation of Firearms Ownership," Leonard Whitley, 2000)

The legislature adopted a major new arms law for the first time prohibiting the open carrying of firearms in the cities.

The government tried to do warrantless searches of private residences for guns in Chicago housing projects in 1994. This is a reminder of how racism and gun control remain mixed up. These warrantless searches were finally blocked by a judge. After President Clinton's warrantless search party was struck down he finally explained his goals. "We're going to work with residents in high crime areas to permit searches that the constitution does allow in common areas, in vacant apartments, and in circumstances where residents are in immediate danger. We'll encourage more weapons frisks of suspicious persons." The "frisks of suspicious persons" is a long-standing tradition used against black Americans. Requiring housing projects tenants to give up their constitutional protections against warrantless searches is astounding. The government attempted to make tenants safe by unconstitutional means that the intentions were good even if the methods were wrong. The large majority of those arrested in housing projects were non-residents. It's amazing that the residents, who would have much to fear from these armed non-resident criminals, are the ones that the Clinton Administration seeks to disarm. To examine the Clinton Administration policies as response to crime, why disarm the likely victims of the criminals? If we consider these unexplainable policies as the latest symptom of racist attitudes

about violence, then these policies make much more sense. The past motivations for disarming blacks are not so different from the motivations behind disarming law-abiding citizens today. In the last century the rhetoric to support such laws is that "they" (blacks) were too violent and untrustworthy to be allowed weapons.

With open racism unacceptable in American politics gun control still looks suspiciously concerned with race. The Crime Bill of 1994 passed after a fight in Congress was opposed by an unlikely coalition in the House, most republicans, some conservative democrats, and many black democrats. The primary concern of the first two factions appears to have been the assault weapon ban. The black democrats were concerned that the death penalty would affect blacks. The assault weapons ban reflected a widespread fear of armed inner city blacks. Most of the rhetoric was devoted to the dangers of these guns in the hands of gang members. Studies have found that assault weapons are seldomly misused criminally. Crime control was not the motivation for the assault weapon ban. A point to consider is that under the American legal system government discrimination is considered constitutionally suspect. These "suspect classifications" are subject to strong presumption of invalidity. These classifications are suspect because there's a long history of government discrimination and because laws based on these often impinge on fundamental rights.

The ultimate responsibility for protecting yourself is yourself. A court decision stated that "There is no constitutional right to be protected by the state against criminals." It is monstrous if the state fails to protect its residents against criminals. But however it doesn't violate the due process clause of the 14th Amendment or the Constitution. The Constitution says that it doesn't require the federal government or state to provide services as maintaining law and order. The contradiction here is that the government at federal, state and local levels denies all liability if you're a victim of a crime. At the same time it pushes for more gun control (except for itself) thereby limiting our ability to protect ourselves and our families. Someone has to be responsible for one's own protection. If the government won't do it then we have to. If the government isn't responsible for maintaining law and order, as federal courts have declared, then who is? For the government to take this position and then deny us gun ownership is criminal.

-- Felicia Whitley wrote this paper in her junior year at Monmouth Regional High School